

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

RAMON ARAGON, *et al.*,
Defendants.

69cv07941-BB-ACE

RIO CHAMA STREAM SYSTEM
Section 3: Rio Nutrias, Rio Cebolla
Canjilon Creek

STATUS REPORT ON SUBFILE ACTIVITY IN SECTION 3

Pursuant to the Order Setting Status Conference entered May 5, 2005 (Doc. No. 7850), the State of New Mexico on the relation of the State Engineer submits the following Status Report on individual subfile activity in Section 3 (Rio Nutrias, Rio Cebolla and Canjilon Creek).

Rio Nutrias

During the previous 12 months the State sent out revised proposed Consent Orders in three subfiles in Nutrias and received one Order approved by the Defendants. There are 15 remaining open subfiles in the Nutrias subsection. All of the Defendants in this subsection have been joined and served with process.

The State anticipates that at least one-half of the remaining open subfiles in Nutrias can be quickly closed after the completion of additional field work and inspection of the tracts involved. Field work in a number of subfiles was delayed in part at the request of the Defendants. The hydrographic survey staff has been contacting all Defendants to schedule inspections as soon as possible. Assuming the State receives the cooperation of the Defendants, any required field work in

connection with the remaining open subfiles (15) should be completed within the next three months.

Defendants in four related subfiles in Nutrias filed Answers in 2002 rejecting the State's proposed Consent Orders. Field work in connection with these subfiles is required and is being scheduled. In addition, the State has requested that Dr. John Baxter undertake certain historical research in connection with these tracts. This work should also be completed in the next three months.

In addition to the tracts described above, there are several open subfiles where title or boundary issues have delayed the entry of an order. The tracts involved have now been surveyed by the Defendants and any title problems have been resolved. The hydrographic survey staff has completed field work in connection with the mapping of these tracts, and revised proposed Consent Orders in these subfiles will be issued shortly.

The State is cautiously optimistic that all of the remaining open subfiles in the Nutrias subsection may be able to be closed by agreement with the Defendants by the end of 2005. If the State is unable to come to an agreement with the Defendants by the end of 2005, the State will at that time request the entry of a scheduling order to resolve disputed claims in an evidentiary hearing before the special master.

Rio Cebolla

During the previous 12 months the State sent out revised proposed Consent Orders in six subfiles in Cebolla and received seven Orders approved by the Defendants. In addition, the Court recently granted the State's Motion for Summary Judgment in one disputed subfile (CHCB-003-0015B). There are 10 remaining open subfiles in the Cebolla subsection. All of the Defendants in this subsection have been joined and served with process.

The State anticipates that about one-half of the remaining open subfiles in Cebolla can be closed after the completion of additional field work and inspection of the tracts involved and that this work will be completed in the next three months. Field inspections in these subfiles are being scheduled.

The remaining open subfiles in Cebolla for the most part involve members of the Chacon family. The Chacon family has been gathering information to substantiate their claims, and the State expects to receive this information in the next two to three months. After the State has had the opportunity to review and discuss this information with the Chacon family, the State will be able to report to the Court whether or not hearings may be necessary to resolve disagreements. If the State is unable to reach an agreement with the Chacons (or with Defendants in any other open subfiles) by the end of 2005, the State will at that time request the entry of a scheduling order to resolve disputed claims in an evidentiary hearing before the special master.

Canjilon Creek

During the previous 12 months the State sent out proposed Consent Orders in 12 subfiles in Canjilon and received 10 Orders approved by the Defendants. There are 53 remaining open subfiles in the Canjilon subsection (one hundred and eighty four subfiles in Canjilon have been closed). There are approximately 24 Defendants that have not been served with process, although most have received documents and proposed consent orders from the State. The State will attempt to complete service on all the unserved Defendants within the next 3 months.

The State anticipates that at least 6 subfiles can be quickly closed by agreement with the Defendants, and an additional 6 subfiles can be closed by the entry of default judgments. Of the remaining open subfiles, there are approximately 10 subfiles that require additional fieldwork. These

subfiles have been turned over to the hydrographic survey staff. Field inspections are being scheduled and the State anticipates that all fieldwork in this subsection will be completed this season. In addition, there are approximately 12 subfiles where revised consent orders have been sent to Defendants following field inspections where the State is still awaiting a response from the Defendants. The State will follow up on these as quickly as possible in an attempt to reach an agreement with the Defendants. It does not appear at this time that further fieldwork may need to be conducted to reach agreement on these subfiles. There are also several subfiles where title issues have delayed the entry of an order. Historical research is also necessary in connection with at least one subfile. The State anticipates resolving these issues by the end of summer and identifying any issues that cannot be resolved by agreement by the end of 2005.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I hereby certify that copies of the above Status Report were mailed to the following persons on June 10, 2005.

/s/ Ed Newville
Edward G. Newville

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